

REMARKS

This Application has carefully reviewed in light of the Final Office Action mailed November 19, 2004. In order to advance prosecution of this Application, Claims 1, 11, and 20 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hiekali in view of Stallings. Independent Claims 1, 11, and 20 recite in general the ability to encapsulate traffic carried by asynchronous transfer mode cells in a traffic stream and have traffic not being carried by asynchronous transfer mode cells in the traffic stream to bypass encapsulation. By contrast, the Hiekali patent merely shows an ATM gateway that receives ATM cells and converts them to non-ATM protocols and vice versa. The Stallings paper is merely used for disclosure of encapsulation of ATM cells that is lacking in the Hiekali patent. The combination of the Hiekali patent and the Stallings paper has no means for identifying between ATM bearing traffic and non-ATM bearing traffic within a traffic stream let alone an ability to provide encapsulation for the ATM bearing traffic and to bypass encapsulation for the non-ATM bearing traffic as required in the claimed invention. Therefore, Applicant respectfully submits that Claims 1-20 are patentably distinct from the proposed Hiekali - Stallings combination.

The present Response to Examiner's Final Action is necessary to address the Examiner's characterization of the prior art in light of the claims. This Response to examiner's Final Action could not have been presented earlier as the Examiner has only now provided the prior art characterization.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

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Correspondence Address:

BAKER BOTTS L.L.P.

2001 Ross Avenue, Suite 600

Dallas, TX 75201-2980

(214) 953-6507

Customer No.: 05073